



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4634

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/830-30
20 ILCS 3501/830-35

Amends the Illinois Finance Authority Act. Provides that the Illinois Finance Authority (instead of the State Treasurer) shall be custodian of the Illinois Agricultural Loan Guarantee Fund and the Illinois Farmer and Agribusiness Loan Guarantee Fund. Provides that all moneys in those Funds shall be paid by the State Treasurer to the Illinois Finance Authority no later than June 30, 2014, and, on and after that date, all future moneys deposited into the Illinois Agricultural Loan Guarantee Fund shall be paid by the State Treasurer to the Illinois Finance Authority as a continuing appropriation. Effective immediately.

LRB098 16040 HLH 51092 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Finance Authority Act is amended by
5 changing Sections 830-30 and 830-35 as follows:

6 (20 ILCS 3501/830-30)

7 Sec. 830-30. State Guarantees for existing debt.

8 (a) The Authority is authorized to issue State Guarantees
9 for farmers' existing debts held by a lender. For the purposes
10 of this Section, a farmer shall be a resident of Illinois, who
11 is a principal operator of a farm or land, at least 50% of
12 whose annual gross income is derived from farming and whose
13 debt to asset ratio shall not be less than 40%, except in those
14 cases where the applicant has previously used the guarantee
15 program there shall be no debt to asset ratio or income
16 restriction. For the purposes of this Section, debt to asset
17 ratio shall mean the current outstanding liabilities of the
18 farmer divided by the current outstanding assets of the farmer.
19 The Authority shall establish the maximum permissible debt to
20 asset ratio based on criteria established by the Authority.
21 Lenders shall apply for the State Guarantees on forms provided
22 by the Authority and certify that the application and any other
23 documents submitted are true and correct. The lender or

1 borrower, or both in combination, shall pay an administrative
2 fee as determined by the Authority. The applicant shall be
3 responsible for paying any fees or charges involved in
4 recording mortgages, releases, financing statements, insurance
5 for secondary market issues and any other similar fees or
6 charges as the Authority may require. The application shall at
7 a minimum contain the farmer's name, address, present credit
8 and financial information, including cash flow statements,
9 financial statements, balance sheets, and any other
10 information pertinent to the application, and the collateral to
11 be used to secure the State Guarantee. In addition, the lender
12 must agree to bring the farmer's debt to a current status at
13 the time the State Guarantee is provided and must also agree to
14 charge a fixed or adjustable interest rate which the Authority
15 determines to be below the market rate of interest generally
16 available to the borrower. If both the lender and applicant
17 agree, the interest rate on the State Guarantee Loan can be
18 converted to a fixed interest rate at any time during the term
19 of the loan. Any State Guarantees provided under this Section
20 (i) shall not exceed \$500,000 per farmer, (ii) shall be set up
21 on a payment schedule not to exceed 30 years, and shall be no
22 longer than 30 years in duration, and (iii) shall be subject to
23 an annual review and renewal by the lender and the Authority;
24 provided that only one such State Guarantee shall be
25 outstanding per farmer at any one time. No State Guarantee
26 shall be revoked by the Authority without a 90-day notice, in

1 writing, to all parties. In those cases where the borrower has
2 not previously used the guarantee program, the lender shall not
3 call due any loan during the first 3 years for any reason
4 except for lack of performance or insufficient collateral. The
5 lender can review and withdraw or continue with the State
6 Guarantee on an annual basis after the first 3 years of the
7 loan, provided a 90-day notice, in writing, to all parties has
8 been given.

9 (b) The Authority shall provide or renew a State Guarantee
10 to a lender if:

11 (i) A fee equal to 25 basis points on the loan is paid
12 to the Authority on an annual basis by the lender.

13 (ii) The application provides collateral acceptable to
14 the Authority that is at least equal to the State's portion
15 of the Guarantee to be provided.

16 (iii) The lender assumes all responsibility and costs
17 for pursuing legal action on collecting any loan that is
18 delinquent or in default.

19 (iv) The lender is responsible for the first 15% of the
20 outstanding principal of the note for which the State
21 Guarantee has been applied.

22 (c) There is hereby created outside of the State treasury a
23 special fund to be known as the Illinois Agricultural Loan
24 Guarantee Fund. The Authority ~~State Treasurer~~ shall be
25 custodian of this Fund. No later than June 30, 2014, all moneys
26 in the Illinois Agricultural Loan Guarantee Fund shall be paid

1 by the State Treasurer to the Authority, and, on and after that
2 date, all future moneys deposited into the Illinois
3 Agricultural Loan Guarantee Fund shall be paid by the State
4 Treasurer to the Authority under the continuing appropriation
5 provision of this Section. Any amounts in the Illinois
6 Agricultural Loan Guarantee Fund not currently needed to meet
7 the obligations of the Fund shall be invested as provided by
8 law, and all interest earned from these investments shall be
9 deposited into the Fund until the Fund reaches the maximum
10 amount authorized in this Act; thereafter, interest earned
11 shall be deposited into the General Revenue Fund. After
12 September 1, 1989, annual investment earnings equal to 1.5% of
13 the Fund shall remain in the Fund to be used for the purposes
14 established in Section 830-40 of this Act. The Authority is
15 authorized to transfer to the Fund such amounts as are
16 necessary to satisfy claims during the duration of the State
17 Guarantee program to secure State Guarantees issued under this
18 Section. If for any reason the General Assembly fails to make
19 an appropriation sufficient to meet these obligations, this Act
20 shall constitute an irrevocable and continuing appropriation
21 of an amount necessary to secure guarantees as defaults occur
22 and the irrevocable and continuing authority for, and direction
23 to, the State Treasurer and the Comptroller to make the
24 necessary transfers to the Illinois Agricultural Loan
25 Guarantee Fund, as directed by the Governor, out of the General
26 Revenue Fund. Within 30 days after November 15, 1985, the

1 Authority may transfer up to \$7,000,000 from available
2 appropriations into the Illinois Agricultural Loan Guarantee
3 Fund for the purposes of this Act. Thereafter, the Authority
4 may transfer additional amounts into the Illinois Agricultural
5 Loan Guarantee Fund to secure guarantees for defaults as
6 defaults occur. In the event of default by the farmer, the
7 lender shall be entitled to, and the Authority shall direct
8 payment on, the State Guarantee after 90 days of delinquency.
9 All payments by the Authority shall be made from the Illinois
10 Agricultural Loan Guarantee Fund to satisfy claims against the
11 State Guarantee. The Illinois Agricultural Loan Guarantee Fund
12 shall guarantee receipt of payment of the 85% of the principal
13 and interest owed on the State Guarantee Loan by the farmer to
14 the guarantee holder. It shall be the responsibility of the
15 lender to proceed with the collecting and disposing of
16 collateral on the State Guarantee within 14 months of the time
17 the State Guarantee is declared delinquent; provided, however,
18 that the lender shall not collect or dispose of collateral on
19 the State Guarantee without the express written prior approval
20 of the Authority. If the lender does not dispose of the
21 collateral within 14 months, the lender shall be liable to
22 repay to the State interest on the State Guarantee equal to the
23 same rate which the lender charges on the State Guarantee;
24 provided, however, that the Authority may extend the 14-month
25 period for a lender in the case of bankruptcy or extenuating
26 circumstances. The Fund shall be reimbursed for any amounts

1 paid under this Section upon liquidation of the collateral. The
2 Authority, by resolution of the Board, may borrow sums from the
3 Fund and provide for repayment as soon as may be practical upon
4 receipt of payments of principal and interest by a farmer.
5 Money may be borrowed from the Fund by the Authority for the
6 sole purpose of paying certain interest costs for farmers
7 associated with selling a loan subject to a State Guarantee in
8 a secondary market as may be deemed reasonable and necessary by
9 the Authority.

10 (d) Notwithstanding the provisions of this Section 830-30
11 with respect to the farmers and lenders who may obtain State
12 Guarantees, the Authority may promulgate rules establishing
13 the eligibility of farmers and lenders to participate in the
14 State guarantee program and the terms, standards, and
15 procedures that will apply, when the Authority finds that
16 emergency conditions in Illinois agriculture have created the
17 need for State Guarantees pursuant to terms, standards, and
18 procedures other than those specified in this Section.

19 (Source: P.A. 93-205, eff. 1-1-04.)

20 (20 ILCS 3501/830-35)

21 Sec. 830-35. State Guarantees for loans to farmers and
22 agribusiness; eligibility.

23 (a) The Authority is authorized to issue State Guarantees
24 to lenders for loans to eligible farmers and agribusinesses for
25 purposes set forth in this Section. For purposes of this

1 Section, an eligible farmer shall be a resident of Illinois (i)
2 who is principal operator of a farm or land, at least 50% of
3 whose annual gross income is derived from farming, (ii) whose
4 annual total sales of agricultural products, commodities, or
5 livestock exceeds \$20,000, and (iii) whose net worth does not
6 exceed \$500,000. An eligible agribusiness shall be that as
7 defined in Section 801-10 of this Act. The Authority may
8 approve applications by farmers and agribusinesses that
9 promote diversification of the farm economy of this State
10 through the growth and development of new crops or livestock
11 not customarily grown or produced in this State or that
12 emphasize a vertical integration of grain or livestock produced
13 or raised in this State into a finished agricultural product
14 for consumption or use. "New crops or livestock not customarily
15 grown or produced in this State" shall not include corn,
16 soybeans, wheat, swine, or beef or dairy cattle. "Vertical
17 integration of grain or livestock produced or raised in this
18 State" shall include any new or existing grain or livestock
19 grown or produced in this State. Lenders shall apply for the
20 State Guarantees on forms provided by the Authority, certify
21 that the application and any other documents submitted are true
22 and correct, and pay an administrative fee as determined by the
23 Authority. The applicant shall be responsible for paying any
24 fees or charges involved in recording mortgages, releases,
25 financing statements, insurance for secondary market issues
26 and any other similar fees or charges as the Authority may

1 require. The application shall at a minimum contain the
2 farmer's or agribusiness' name, address, present credit and
3 financial information, including cash flow statements,
4 financial statements, balance sheets, and any other
5 information pertinent to the application, and the collateral to
6 be used to secure the State Guarantee. In addition, the lender
7 must agree to charge an interest rate, which may vary, on the
8 loan that the Authority determines to be below the market rate
9 of interest generally available to the borrower. If both the
10 lender and applicant agree, the interest rate on the State
11 Guarantee Loan can be converted to a fixed interest rate at any
12 time during the term of the loan. Any State Guarantees provided
13 under this Section (i) shall not exceed \$500,000 per farmer or
14 an amount as determined by the Authority on a case-by-case
15 basis for an agribusiness, (ii) shall not exceed a term of 15
16 years, and (iii) shall be subject to an annual review and
17 renewal by the lender and the Authority; provided that only one
18 such State Guarantee shall be made per farmer or agribusiness,
19 except that additional State Guarantees may be made for
20 purposes of expansion of projects financed in part by a
21 previously issued State Guarantee. No State Guarantee shall be
22 revoked by the Authority without a 90-day notice, in writing,
23 to all parties. The lender shall not call due any loan for any
24 reason except for lack of performance, insufficient
25 collateral, or maturity. A lender may review and withdraw or
26 continue with a State Guarantee on an annual basis after the

1 first 5 years following closing of the loan application if the
2 loan contract provides for an interest rate that shall not
3 vary. A lender shall not withdraw a State Guarantee if the loan
4 contract provides for an interest rate that may vary, except
5 for reasons set forth herein.

6 (b) The Authority shall provide or renew a State Guarantee
7 to a lender if:

8 (i) A fee equal to 25 basis points on the loan is paid
9 to the Authority on an annual basis by the lender.

10 (ii) The application provides collateral acceptable to
11 the Authority that is at least equal to the State's portion
12 of the Guarantee to be provided.

13 (iii) The lender assumes all responsibility and costs
14 for pursuing legal action on collecting any loan that is
15 delinquent or in default.

16 (iv) The lender is responsible for the first 15% of the
17 outstanding principal of the note for which the State
18 Guarantee has been applied.

19 (c) There is hereby created outside of the State treasury a
20 special fund to be known as the Illinois Farmer and
21 Agribusiness Loan Guarantee Fund. The Authority ~~State~~
22 ~~Treasurer~~ shall be custodian of this Fund. No later than June
23 30, 2014, all moneys in the Illinois Farmer and Agribusiness
24 Loan Guarantee Fund shall be paid by the State Treasurer to the
25 Authority, and, on and after that date, all future moneys
26 deposited into the Illinois Farmer and Agribusiness Loan

1 Guarantee Fund shall be paid by the State Treasurer to the
2 Authority under the continuing appropriation provision of this
3 Section. Any amounts in the Fund not currently needed to meet
4 the obligations of the Fund shall be invested as provided by
5 law, and all interest earned from these investments shall be
6 deposited into the Fund until the Fund reaches the maximum
7 amounts authorized in this Act; thereafter, interest earned
8 shall be deposited into the General Revenue Fund. After
9 September 1, 1989, annual investment earnings equal to 1.5% of
10 the Fund shall remain in the Fund to be used for the purposes
11 established in Section 830-40 of this Act. The Authority is
12 authorized to transfer such amounts as are necessary to satisfy
13 claims from available appropriations and from fund balances of
14 the Farm Emergency Assistance Fund as of June 30 of each year
15 to the Illinois Farmer and Agribusiness Loan Guarantee Fund to
16 secure State Guarantees issued under this Section and Sections
17 830-45, 830-50, and 830-55. If for any reason the General
18 Assembly fails to make an appropriation sufficient to meet
19 these obligations, this Act shall constitute an irrevocable and
20 continuing appropriation of an amount necessary to secure
21 guarantees as defaults occur and the irrevocable and continuing
22 authority for, and direction to, the State Treasurer and the
23 Comptroller to make the necessary transfers to the Illinois
24 Farmer and Agribusiness Loan Guarantee Fund, as directed by the
25 Governor, out of the General Revenue Fund. In the event of
26 default by the borrower on State Guarantee Loans under this

1 Section, Section 830-45, Section 830-50, or Section 830-55, the
2 lender shall be entitled to, and the Authority shall direct
3 payment on, the State Guarantee after 90 days of delinquency.
4 All payments by the Authority shall be made from the Illinois
5 Farmer and Agribusiness Loan Guarantee Fund to satisfy claims
6 against the State Guarantee. It shall be the responsibility of
7 the lender to proceed with the collecting and disposing of
8 collateral on the State Guarantee under this Section, Section
9 830-45, Section 830-50, or Section 830-55 within 14 months of
10 the time the State Guarantee is declared delinquent. If the
11 lender does not dispose of the collateral within 14 months, the
12 lender shall be liable to repay to the State interest on the
13 State Guarantee equal to the same rate that the lender charges
14 on the State Guarantee, provided that the Authority shall have
15 the authority to extend the 14-month period for a lender in the
16 case of bankruptcy or extenuating circumstances. The Fund shall
17 be reimbursed for any amounts paid under this Section, Section
18 830-45, Section 830-50, or Section 830-55 upon liquidation of
19 the collateral. The Authority, by resolution of the Board, may
20 borrow sums from the Fund and provide for repayment as soon as
21 may be practical upon receipt of payments of principal and
22 interest by a borrower on State Guarantee Loans under this
23 Section, Section 830-45, Section 830-50, or Section 830-55.
24 Money may be borrowed from the Fund by the Authority for the
25 sole purpose of paying certain interest costs for borrowers
26 associated with selling a loan subject to a State Guarantee

1 under this Section, Section 830-45, Section 830-50, or Section
2 830-55 in a secondary market as may be deemed reasonable and
3 necessary by the Authority.

4 (d) Notwithstanding the provisions of this Section 830-35
5 with respect to the farmers, agribusinesses, and lenders who
6 may obtain State Guarantees, the Authority may promulgate rules
7 establishing the eligibility of farmers, agribusinesses, and
8 lenders to participate in the State Guarantee program and the
9 terms, standards, and procedures that will apply, when the
10 Authority finds that emergency conditions in Illinois
11 agriculture have created the need for State Guarantees pursuant
12 to terms, standards, and procedures other than those specified
13 in this Section.

14 (Source: P.A. 96-897, eff. 5-24-10.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.